IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8712 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYANTIBHAI PITARBHAI RATHOD - Petitioner(s)

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION - Respondent(s)

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Appearance :

MR GK RATHOD for Petitioner No(s).: 1.
MR HS MUNSHAW for Respondent No(s).: 1.
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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 28/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 16th March, 2000 passed by the Labour court, Nadidad in Reference [L.C.N.] No. 1 of 1997, whereby the Labour Court has denied the reinstatement with full back wages and has converted the dismissal order into simple termination and

thereby granted all the retiremental benefits viz. P.F., Gratuity & Leave Encashment.

2. The short facts of the case are that the petitioner was working as a Conductor in Kapadvanj Depot of Nadiad Division. While on duty at night in Khambhat on 26th September, 1988, the petitioner was not able to deposit the amount to the respondent Corporation on the very same day and, therefore, he was served with the chargesheet. Subsequently after initiating departmental inquiry, the petitioner vide order dated 5th December, 1988, was dismissed from the service.

2.1. Being aggrieved by the said order, the petitioner raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after considering the case of merits, allowed the Reference and converted the dismissal order into simple termination and granted the pay benefits. Hence, this petition.

3. Mr. Rathod learned advocate for the petitioner has submitted that the Labour Court while exercising the powers under Section 11-A of the Industrial Disputes Act, 1947, has not taken into consideration the fact that the amount in question was deposited before filing of the complaint and, therefore, the charge of misappropriation cannot be held to be proved against the petitioner.

4. I have heard the learned advocates for the respective parties. Having perused the materials placed on record, it transpires that the petitioner has himself

admitted before the Labour Court that he had misappropriated the amount in question and thereby, the respondent has lost confidence from the petitioner and imposed the penalty of dismissal from the service. It is required to be noted that the Labour Court while exercising powers under Section 11A of the Industrial Disputes Act, 1947 has substituted the penalty only on the footing that the petitioner is the only earning member of the family. Therefore, in my opinion, the Labour Court was justified in converting the dismissal order into simple termination. Thus, the view taken by the Labour Court is just and proper and I find no reason to interfere with the impugned award passed by the Labour Court.

5. In the result, the petition is dismissed. The impugned order is confirmed. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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